

**REMARKS**

In the Office Action, the Examiner rejected claims 1-28. Applicant has not amended the claims by this Response. Claims 1-28 will remain pending in the present patent application. In view of the following remarks, Applicant respectfully requests reconsideration and allowance of all pending claims.

**Summary of Embodiments of the Claimed Subject Matter**

Prior to addressing the Examiner's rejections, Applicant again respectfully provides the following summary of exemplary embodiments of the present technique. Respectfully, Applicant submits that the following summary will assist in advancing prosecution of the present application to allowance.

In accordance with certain embodiments, the present technique provides novel approaches to multilingual control and monitoring of industrial and automation systems. *See Application, p. 2, ll. 11-17.* In an exemplary embodiment, the present technique provides a control and monitoring system 10—which includes a plurality of components 32 that may take various forms—that is in communication with a monitoring station 18 via a network 14. *See id. at p. 5, ll. 15-25.* Certain of these components 32 include memory objects 80 that are *local* to the component 32 itself. *See id. at p. 9, ll. 22-25.* As an example, these memory objects 100 can include data related to the identity of the component, including the manufacturer as well as capabilities of the component, for instance. *See id. at p. 11, ll. 19-22.*

As a practical matter, polling the *local* memory objects 100 within the components 32 facilitates development of real-time representation of the system. *See Application, p. 15, ll. 20-24.* For example, the monitoring station 18 can execute software that polls the components and that generates user viewable representations based on the identity information gleaned from the local memory objects 100 in the components

32. *See id.* at p. 14, ll. 5-15. Thus, the monitoring station 18 is capable of developing the appropriate view without requiring prior knowledge of the system 10. For instance, the monitoring station 18 may poll the network and learn that the system 10 includes three relays; and, in turn, the monitoring station builds an appropriate view for three relays. At a later point, if one of the relays is removed, a polling of the system 10 would elicit that only two relays are present. In response, the monitoring station 18 would present a view appropriate for two relays. Thus, with the exemplary embodiment, the views displayed at the monitoring station 18 are commiserate with the actual components in the system at the time the view is built. In other words, the view is a *real-time* representation of the system, and is based on identity information learned from the component itself.

Additionally, the exemplary embodiment facilitates multilingual representations of the views at the monitoring station 18, by accessing language entries stored in a database 96. For example, if a user selects a desired language, such as Spanish, from a drop down menu, the monitoring station 18 automatically draws all appropriate textual labels, descriptions, headings, and so forth from the appropriate entries 188 of the database 96. *See Application*, p. 19, ll. 5-10. Advantageously, the exemplary embodiment facilitates switching between languages as desired during operation of the system, and without interrupting other functions of the system, such as real-time monitoring and control. *See id.* at p. 19, ll. 11-15.

With this in mind, Applicant addresses the Examiner's rejections in more detail below.

### **Rejections Under 35 U.S.C. § 103**

In the Office Action, the Examiner rejected the pending claims under 35 U.S.C. § 103(a) as obvious in view of various permutations and combinations of the Tkacs et al. reference (U.S. Patent No. 5,526,268; hereinafter "Tkacs"), the Swales et al. reference

(U.S. Patent No. 6,151,625; hereinafter “Swales”), the Bapat reference (U.S. Patent No. 4,916, 610; hereinafter “Bapat”), and the Bargh et al. reference (U.S. Patent No. 6,212,491; hereinafter “Bargh”).

#### **A. Legal Precedent**

Applicant, however, respectfully submits that the foregoing Section 103 rejections are not *prima facie* sufficient. The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). To establish a *prima facie* case, the Examiner must show two things. *See Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). The Examiner must first show that the combination or modification includes *all* of the claimed elements. *See id.* Additionally, the Examiner must present a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *See id.* Moreover, obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination or modification. *See ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Indeed, the mere fact that references *can* be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *See In re Mills*, 16 U.S.P.Q.2d. 1430 (Fed. Cir. 1990).

Additionally, in presenting a Section 103 rejection, the Examiner must provide *objective evidence*— rather than subjective belief and unknown authority— of the requisite motivation or suggestion to combine or modify the cited references. *See In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). “Broad conclusory statements standing alone are not ‘evidence’.” *In re Kotzab*, 55 U.S.P.Q. 2d 1314, 1317 (Fed. Cir. 2000). Thus, when prior art references require a selected combination or modification to render obvious a subsequent invention, there must be some reason for the combination or modification

*other than the hindsight* gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination or modification. *See Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988). Indeed, the Federal Circuit has warned that the Examiner must not “fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.” *See In re Dembiczak* 50 U.S.P.Q. 2d 52 (Fed. Cir. 1999). (quoting *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)). Moreover, avoiding hindsight reconstruction is especially important regarding less technologically complex inventions, where the very ease which the invention can be understood may prompt one to employ such hindsight. *See id.*

As discussed above, in determining the differences between the prior art and the claims, the question under Section 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *See Stratoflex, Inc. v. Aeroquip Corp.*, 218 U.S.P.Q. 871 (Fed. Cir. 1983). Thus, the Examiner must not look at each element of a claim individually, but rather the claims should be viewed as a tapestry comprising the recited elements. Thus, “it is impermissible, however, to simply engage in a hindsight reconstruction of the claimed invention, *using the applicant’s structure as a template* and selecting elements from references to fill the gaps.” *In re Gorman*, 18 U.S.P.Q. 2d 1885, 1888 (Fed. Cir. 1991) (emphasis added). Simply put, what may seem logical to combine in retrospect and after viewing an applicant’s invention is not obvious unless the cited references, without benefit of this hindsight, teach what is claimed. *See In re Zurko*, 42 U.S.P.Q.2d 1476, 1479 (stating “[w]hile in retrospect, looking at applicants’ invention, it might seem logical to perform a repeat-back in the UNIX system over a trusted line, neither UNIX nor FILER2 teaches communications with the user of a trusted pathway,” as is recited in the claim in question). In summary, a valid Section 103 rejection must articulate and support

with objective evidence a line of reasoning that establishes why one of ordinary skill in the art, with no knowledge of an applicant's intention, would make the combination in the manner claimed. *See In re Kotzab*, 55 U.S.P.Q.2d at 1318 (Fed. Cir. 2000).

With the foregoing legal precedent in mind, Applicant respectfully submits that the pending claims are not obvious in view of the cited references, whether taken alone or together.

#### **B. First Rejection Under Section 103**

In the Office Action, the Examiner rejected claims 9-12, 16-20, 22-24, and 26-28 under 35 U.S.C. § 103(a) as "being unpatentable over Tkacs et al. (herein after Tkacs) U.S. Patent No. 5,526,268 filed 5/11/1994 in view of Bapat U.S. Patent No. 4,916,610 filed 10/5/1988 in view Swales et al (herein after Swales) U.S. Patent No. 5,526,268 filed 5/11/1994 in view of Bapat U.S. Patent No. 4,916,610 filed 10/5/1988." Office Action mailed July 13, 2005, p. 2. Although this introductory summary of the rejection mentions Bapat, the substance of the Examiner's rejection does not appear to present or rely upon this reference. Accordingly, in view of the substantive remarks provided by the Examiner—portions of which are reproduced below—Applicant addresses the above-listed claims as rejected under Section 103 as being obvious in view of Tkacs and Swales.

In rejecting independent claims 9 and 20, the Examiner asserted as follows:

**In regard to independent claim 9**, Tkacs discloses a *database including component data descriptive of the components and a plurality of language fields including textual labels for component data presentations translated into a plurality of languages* (Tkacs Col 6 Lines 34-39 and 60-63) (Tkacs Col 1 Lines 12-17 Col 4 Lines 29-40) (Tkacs Col 11 Lines 47-49); and a plurality of monitoring screens viewable on the monitoring station and including representations of component destinations and component

*status parameters based upon monitored data collected by the monitoring station via the data network, the screens including textual labels for the representations (Tkacs Col 7 Lines 28-38) (Tkacs Col 11 Lines 45-49) (Tkacs Col 12 Lines 56-60); wherein the monitoring station is configured to access textual labels in a desired language from the database for display in the monitoring Screens. (Tkacs Col 6 Lines 34-39) (Tkacs Col 11 Lines 5-7) (Tkacs Col 1 Lines 12-17) (Tkacs Col 7 Lines 28-38)*

*Tkacs does not specifically mention including at least data identifying the components stored in the respective components to build a view of the components in real-time based upon the identifying component data and based upon the identifying component data collected from the component. However, Swales mentions that data can be controlled on a real time basis (Swales Col 4 Lines 45-47). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Swales to Tkacs providing Tkacs the benefit of ensure data is processed in real time to ensure the data is accurate and current.*

....

**In regard to independent claim 20,** Tkacs discloses *accessing component status data (Tkacs Col 6 Lines 60-63) from a plurality of electrical components (Tkacs Col 6 Lines 14-19) of a control and monitoring system (Tkacs Col 7 Lines 28-38) via a data network each component storing its respective identify data (Tkacs Col 1 Lines 29-34); accessing textual labels (Tkacs Col 6 Lines 34-39) corresponding (Tkacs Col 4 Lines 1-5) to the component status data (Tkacs Col 4 Lines 35-39) from a system database (Tkacs Col 6 Lines 60-63), the database including translations (Tkacs Col 11 Lines 47-49) of the textual labels (Tkacs Col 6 Lines 34- 39) in a plurality of languages and component descriptions for the components (Tkacs Col 6 Lines 60-63 Col 4 Lines 10-67 and Col 5 Lines 1-19) (Tkacs Col 1 Lines 12-17); and displaying a plurality of monitoring representations (Tkacs Col 7 Lines 28-38) for the components including representations*

*(Tkacs Col 4 Lines 41-43) of component status data (Tkacs Col 4 Lines 35-3 9) and textual labels (Tkacs Col 6 Lines 34-3 9) in a desired language (Tkacs Col 11 Lines 5-7) of the plurality of languages (Tkacs Col 1 Lines 12-17) accessed from the database. (Tkacs Col 6 Lines 60-63)*

Tkacs does not specifically mention *including at least data identifying the components stored in the respective components to build a view of the components in real-time based upon the identifying component data and based upon the identifying component data collected from the component*. However, Swales mentions that data can be controlled on a real time basis (Swales Col 4 Lines 45-47), It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Swales to Tkacs providing Tkacs the benefit of ensure data is processed in real time to ensure the data is accurate and current.

*See Office Action mailed July 13, 2005, pp. 2-5 (italic and bold emphases in original).*

Applicant, however, respectfully submits that a *prima facie* case of obviousness has not been established. Specifically, as is discussed further below, Applicant respectfully submits the cited references, whether taken alone or in combination, do not disclose all of the features recited in the pending claims. Moreover, even if the cited references are assumed to disclose all of the features recited in the pending claims—which they do not—an *objectively supported* motivation for combining the cited references to reach the pending claims has not been presented. In fact, this lack of an objectively supported line of reasoning evidences that impermissible hindsight reconstruction has been employed to reject the pending claims.

#### **I. Independent Claim 9 and the Claims Depending Therefrom**

By way of example, Applicant respectfully submit that neither of the cited references discloses “a plurality of components...including at least data identifying the

components stored in the respective components,” along with a “monitoring station” that builds a view of the components based on this stored identifying data, as recited in independent claim 9. As previously argued, Tkacs describes a device in which the “process diagram” of various components is developed by accessing a memory 44 *wholly independent of the components of the process*. See Tkacs, col. 6, ll. 64-66; col. 6, ll. 40-43; *see also* Applicant’s RCE and Response to Final Office Action, p. 10. Indeed, it appears that the Examiner concedes this feature is not disclosed by Tkacs. See Office Action mailed July 13, 2005, p. 3.

To obviate this deficiency, the Examiner relies on Swales—specifically, col. 4, lines 45-47. This section of Swales states as follows: “Controlling the PLC from a remote HMI, essentially on a real time basis is possible by controlling the data flow through the web server 30. Associated with the PLC 32 are its application programs, dual port memory 38 and Input/Output (I/O) modules.” See Swales, col. 4, ll. 43-47. Nothing in this section of Swales, by Applicant’s reading, teaches that data *identifying a component is stored in the component*. Moreover, even if, *arguendo*, it is asserted that a component having identifying data stored therein is disclosed, nothing in Swales even suggests that a view can be built from this data. As is discussed further below, this section of Swales only evidences that “real time” control is possible, failing to disclose the specific structural elements recited in the present claim. Thus, in summary, neither Swales nor Tkacs—alone or in combination—discloses *all* of the features claimed.

## II. Independent Claim 20 and the Claims Depending Therefrom

Similarly, the cited references do not disclose the acts of “accessing component status and identity data from a plurality of electrical components,” and “displaying a plurality of monitoring representation for the components, built in real time based on the status and identity data,” as recited in claim 20. Instead, as is discussed above, Tkacs discloses that the memory 44, which is independent of the components of the process,

stores data. In no way does Tkacs disclose that the components of the process for which the “process” diagram is being built store identity data. Again, all such data, if it exists at all, would be in the memory 44. Thus, it cannot be said that Tkacs discloses the act of accessing such components for the identity data, let alone the act of displaying a representation based on this data, as claimed. Additionally, Swales does not obviate this deficiency. The Examiner again relies on column 6, lines 45-47 of Swales (which are quoted above) to buttress any deficiencies of Tkacs. However, this section simply alleges that “real time” control is possible, without any suggestion or teaching regarding the specific method presently discussed. Each and every recited detail of a claim must be considered; and, if done, it is clear that the cited references do not disclose *all of the claimed features*.

### **III. The Rejection Does Not Present a Proper Motivation**

Furthermore, Applicant respectfully submits that even if, *arguendo*, the cited references are interpreted as disclosing all of recited features, a proper and objectively supported motivation for combination of the cited reference to reach the pending claims has not been articulated. In combing the cited reference, the Examiner simply asserts that: “It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Swales to Tkacs providing Tkacs the benefit of [sic] ensure data is processed in real time to ensure the data is accurate and current.” Office Action mailed July 13, 2005, pp. 3, 5. Applicant, however, respectfully submits that this motivation is a conclusory statement that is not supported by objective evidence. The section of Swales cited by the Examiner, as discussed above, simply evidences that “real time” control exists. It in no way teaches or suggests that data should be stored in a component, let alone that a view can be developed by pulling data from the component. Resultantly, Swales does not provide any objective evidence that supports that Examiner’s conclusion. And this lack of objective evidence supports Applicant’s assertion that the Examiner has employed impermissible hindsight reconstruction to reach

the pending claims. That is, the Examiner has used Applicant's teachings as a road map to combine the cited references to reach the pending claims.

#### IV. Conclusion

Thus, based on the foregoing, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to independent claims 9 and 20. Therefore, Applicant respectfully requests reconsideration and allowance of claim 9 and its respective dependent claims 10-19, and independent claim 20 and its respective dependent claims 21-28.

#### C. Second Rejection Under Section 103

In the Office Action, the Examiner rejected claims 1-7 under 35 U.S.C. § 103(a) as obvious in view of Tkacs, Bapat, and Swales. Specifically, in rejecting independent claim 1, the Examiner stated as follows:

**In regard to independent claim 1,** Tkacs discloses *a database including component data descriptive of the components and a plurality of language fields including textual labels for component data presentations translated into a plurality of languages* (Tkacs Col 6 Lines 60-63 Col 4 Lines 10-67 and Col 5 Lines 1-19) (Tkacs Col 6 Lines 34-39) (Tkacs Col 11 Lines 47-49) (Tkacs Col 1 Lines 12-17); *and a plurality of monitoring screens viewable on the monitoring station and including representations of component designations and component status parameters based upon monitored data collected via the data network from the components in which identifying component data is stored by the monitoring station* (Tkacs Col 7 Lines 17-23 Col 7 Lines 28-38)(Tkacs Col 11 Lines 45-49) (Tkacs Col 12 Lines 56-60) (Tkacs Col 8 Lines 14-16) (Tkacs Col 7 Lines 28-3 8): *wherein the monitoring station is configured to access textual labels in a desired language from the database for displaying the monitoring Screens.* (Tkacs Col 7 Lines 28-3 8) (Tkacs Col 14 Lines 25-

27)(Tkacs Col 6 Lines 34-3 9) (Tkacs Col 11 Lines 5-7)  
(Tkacs Col 6 Lines 60-63) (Tkacs Col 7 Lines 28-3 8)

Tkacs does not specifically mention *to build a view of the components in real-time based upon the identifying component data and based upon the identifying component data collected from the component*, However, Swales mentions that data can be controlled on a real time basis (Swales Col 4 Lines 45-47). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Swales to Tkacs providing Tkacs the benefit of ensure data is processed in real time to ensure the data is accurate and current.

Tkacs does not specifically mention language *fields*. However, Bapat mentions *fields* that can contain sufficient storage that can be allocated (Bapat Col 6 Line 32) It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Bapat to Tkacs providing Tkacs the benefit of allocating fields for storage taught by Bapat Col 6 Lines 32-39.

Office Action mailed July 13, 2005, pp. 6-7.

Applicant, however, respectfully submits that a *prima facie* case of obviousness has not been established. Specifically, as is discussed further below, Applicant respectfully submits the cited references, whether taken alone or in combination, do not disclose all of the features recited in the pending claims. Moreover, even if the cited references are assumed to disclose all of the features recited in the pending claims—which they do not—an *objectively supported* motivation for combining the cited references to reach the pending claims has not been presented. In fact, this lack of an objectively supported line of reasoning evidences that impermissible hindsight reconstruction has been employed to reject the pending claims.

## I. Independent Claim 1 and the Claims Depending Therefrom

For example, the cited references do not disclose “a plurality of monitoring screens...including representations based upon monitoring data collected...via the data network *from the components in which identifying component data is stored*,” as recited in claim 1. Rather, as discussed above, Tkacs teaches that all data is stored in memory 44 independent of the components for which the “process diagram” is developed. Moreover, none of the sections cited by the Examiner even suggests, let alone teaches, that identifying component data is stored *in the component*. The following quotes the sections of Tkacs cited by the Examiner:

**Column 7, lines 17-23:** A “Selection” is made by user action to identify a change in a selection made. A selection can be made by identifying an area of a diagram using a touch screen or peripheral pointer such as a mouse or light pen, and selecting a change in selection for that area. Alternatively, a change in selection can be made for all members of a group.

**Column 7, lines 23-28:** The monitoring apparatus 20 may be more or less complicated. For example, the apparatus can include feedback control outputs coupled to process actuators (not shown) or can simply monitor and report. In addition to display of process parameters, the system can include maintenance or engineering functions, such as usage monitoring, trend analysis functions or the like, upon which the system can report to the user via a suitable formatted display. In addition to displaying measured values, the system could be arranged to run simulations for assessing the likely result of various changes in operation.

**Column 8, lines 14-16:** The processor’s operations including collecting and displaying information are substantially independent of the language used, except that the capability of changing dynamically between languages adds slightly to the memory necessary for storing definitions.

**Column 11, lines 45-49:** Finally, Fig. 6 illustrates a preferred embodiment where the data or text points are grouped to permit conversion of text or format for a selected subset of display items. In this case, all the data points that fall into a group that can be designated values have been translated to form a partially translated output.

**Column 12, lines 56-60:** ...the subset in the second form being different than the first form in at least one of: language, graphical depiction and units of measure, but representing the same said parameter values and process configuration information, according to the second form.

Applicant, respectfully, submits that the foregoing sections in no way suggest, let alone teach, representations based upon data collected from components in which identifying component data is stored, as recited in the instant claim. In fact, these sections discuss topics wholly unrelated to the assertion the Examiner is attempting to support. Furthermore, the addition of Swales does not obviate this deficiency. Moreover, Bapat also does not obviate this deficiency.

## **II. The Rejection Does Not Present a Proper Motivation**

Furthermore, Applicant respectfully submits that even if, *arguendo*, the cited references are interpreted as disclosing all of recited features, a proper and objectively supported motivation for combination of the cited reference to reach the pending claims has not been articulated. In combing the cited reference, the Examiner simply asserts that: "It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Swales to Tkacs providing Tkacs the benefit of [sic] ensure data is processed in real time to ensure the data is accurate and current." Office Action mailed July 13, 2005, pp. 7. Applicant, however, respectfully submits that this motivation is a conclusory statement that is not supported by objective evidence. The section of Swales cited by the Examiner, as discussed above, simply evidences that "real time" control exists. In no way does it teach or suggest that data should be stored in a

component, let alone that a view can be developed by pulling data from the component. Resultantly, Swales does not provide any objective evidence that supports that Examiner's conclusion. And this lack of objective evidence supports Applicant's assertion that the Examiner has employed impermissible hindsight reconstruction to reach the pending claims. That is, the Examiner has used Applicant's teachings as a road map to combine the cited references to reach the pending claims.

### **III. Conclusion**

Thus, based on the foregoing, Applicant respectfully submits that a *prima facie* case of obviousness has not been established with respect to independent claim 1. Therefore, Applicant respectfully requests reconsideration and allowance of claim 1 and its respective dependent claims 2-8.

### **D. Third Rejection Under Section 103**

In the Office Action, the Examiner rejected dependent claims 8 and 21 under 35 U.S.C. § 103(a) as obvious in view of Tkacs, Bapat, and Bargh. Applicant notes that dependent claims 8 and 21 depend from independent claims 1 and 20, respectively. With this in mind, Applicant respectfully reiterates that Tkacs fails to disclose all of the features recited in the instant claims. Furthermore, the Bapat reference and the Bargh et al. reference do not obviate the deficiencies of Tkacs discussed above. Moreover, Applicant respectfully asserts that dependent claims 8 and 21 are not only patentable for their respective dependencies on allowable base claims, but also by virtue of the additional features recited therein. With the foregoing in mind, Applicant respectfully requests reconsideration and allowance of the instant claims.

### **E. Fourth Rejection Under Section 103**

In the Office Action, the Examiner rejected dependent claims 13-15, and 25 under 35 U.S.C. § 103(a) as obvious in view of Tkacs, Bapat, and Swales. Applicant notes that

dependent claims 13-15 and 25 depend from independent claims 9 and 20, respectively. With this in mind, Applicant respectfully reiterates that Tkacs fails to disclose all of the features recited in the instant claims. Furthermore, the Bapat and Swales et al. references fail to obviate the deficiencies of Tkacs discussed above. Moreover, Applicant respectfully asserts that dependent claims 13-15 and 25 are not only patentable for their respective dependences on allowable base claims, but also by virtue of the additional features recited therein. With the foregoing in mind, Applicant respectfully requests reconsideration and allowance of the instant claims.

**Conclusion**

In view of the remarks and amendments set forth above, Applicant respectfully requests allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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